UNITED
NATIONS

CERD

International Convention
on the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1087
16 March 1995

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-sixth session

SUMMARY RECORD OF THE 1087th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 9 March 1995, at 3 p.m.

Chairman: Mr. GARVALOV

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GE.95-15632 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued) (CERD/C/249 and Add.1)

Further information submitted by Croatia under article 9, paragraph 1, of the Convention

1. At the invitation of the Chairman, Mr. Smerdel, Mrs. Šimonović and Mrs. Kos (Croatia) took places at the Committee table.

2. Mr. SMERDEL (Croatia) said that his delegation would do its best to answer the questions asked by the Committee at its forty-third session in 1993 (see document A/48/18, para. 508). Some of the issues raised by the Committee had been settled in the course of time, while others had become even more pressing. Besides the documents already before the Committee (CERD/C/249 and Add.1), his Government had prepared a document entitled "Human Rights in Croatia", which he would circulate to the members. At the current meeting, he would try to describe the practical implementation of the law relating to racial discrimination and the status of minority groups in Croatia, as the Committee had requested.

3. A number of international human rights experts had visited Croatia, including one member of the Committee, Mr. Yutzis, and there had been missions from the Council of Europe; Croatia had applied for membership of the Council and hoped that it would be granted during 1995. The experts had concluded that Croatian legislation was consistent with international and, in particular, European human rights standards, but that some problems still remained with the implementation of that legislation.

4. He had been a member of the drafting committee which had drawn up the Constitution of the Republic of Croatia. The drafting committee had been instructed by Parliament to use international human rights legislation as a guide for the minimum standards to be observed. In fact, some provisions of the Constitution were even more liberal than the international human rights instruments and, in many places, the Constitution had adopted their exact wording. That might be one of the reasons for the lack of clarity and inconsistencies in terminology of which the Committee had complained; other reasons were problems of translation and the speed with which the Constitution had been drafted. In practice, however, the courts had experienced no problems in interpreting and applying the provisions of the Constitution.

5. The Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities, adopted in 1991, went even further than the Constitution in protecting not only the rights of individuals, but also the collective rights of minority groups. For instance, it guaranteed proportional representation for the Serbian population in legislative, executive and judicial bodies, as well as representation for other minority groups. Those provisions had been applied in the general elections held in August 1992. The Constitutional Law also granted local autonomy to two districts, Knin and Glina, which had a large Serbian population.

6. The Constitutional Law had been prepared with the guidance of European human rights experts and was considered one of the best guarantees of the rights of minority groups anywhere in Europe. However, it had been implemented only in the part of the Republic under Government control. The fact that about one quarter of the Republic's territory was still occupied by Serbian paramilitary forces was one of the reasons why the human rights court provided for in the Constitutional Law had not been set up. Other reasons were that Croatia was still adapting its human rights legislation to Council of Europe standards and that there was a possibility that a constitutional court for national minorities might be established. In the meantime, the existing Constitutional Court provided for the possibility of individual recourse through its constitutional complaints procedure. The Government had every intention of establishing the human rights court when the time was right.

7. The Committee had asked about a case in which members of Parliament had allegedly been appointed by the Supreme Court. It had not happened exactly like that; no court had the authority to appoint members of Parliament. In fact, after the general election of August 1992, it had been discovered that the required proportion of Serbian members - 11 per cent - had not been elected. The Constitutional Court had ruled that the required number of Serbian members should be appointed from those candidates in the election who had received the most votes. The case had in fact been one of affirmative action on behalf of the Serbian community. The new Croatian Parliament had adopted some 150 completely new laws and had amended many laws left over from the old Yugoslav system to reflect its liberal values and the provisions of the Constitution. The legal and economic systems had been entirely transformed.

8. Turning to the problems of implementing human rights legislation in practice, he said that it was often argued that any analysis of respect for human rights in a certain country should take into account the situation there, including such factors as foreign military intervention, civil law, defence requirements and the economic situation, although that was naturally no excuse for failure to comply with human rights standards. As far as Croatia was concerned, there were three basic situations affecting different parts of the Republic. The first was the territory occupied by Serbian paramilitary forces, originating from Croatia, and troops from Serbia and Montenegro. The United Nations Protection Force (UNPROFOR) had observed that human rights were constantly infringed in the areas under Serbian control and that ethnic cleansing and other atrocities, even against the Serbian population, were common. The second area was the border zone, over 1,000 km long, defined in the cease-fire agreement of April 1994. The civilian population of the area was still under threat from artillery bombardment, mostly by Bosnian forces; in some places, water supplies were affected and, in others, there were large numbers of refugees. It had been necessary to maintain some restrictions on constitutional rights, which had been authorized by presidential decree and subsequently ratified by the Croatian Parliament.

9. The rest of Croatian territory was not directly affected by the civil war, but standards of living had inevitably been affected. There were also 400,000 displaced Croatian citizens and refugees, mostly from Bosnia and Herzegovina. In all, they amounted to some 8 per cent of the total Croatian

population, but the Croatian Government was managing to meet their basic needs with the assistance of UNHCR, international aid agencies and other sources of aid.

10. The situation he had outlined showed the kind of obstacles facing the Croatian Government in its efforts to protect human rights. Its main priority was to end the occupation and allow the thousands of displaced persons to return to their homes and begin rebuilding their lives. UNPROFOR had been unable to contribute to that task and the Croatian Government had accordingly decided to terminate its mandate. However, the Government hoped that a more effective form of international monitoring and intervention would soon be found.

11. When the Serbian-occupied territory had eventually been reintegrated into the Republic of Croatia, the Government had no intention of holding the Serb population collectively responsible for acts committed during the civil war. The Government would ensure that all citizens, including the Serbian minority, enjoyed the rights guaranteed by the Constitution and the Constitutional Law. A 1992 law stated that members of the Serbian minority would not be prosecuted for fighting the Croatian Government or cooperating with paramilitary forces, unless they had committed war crimes as defined under international law. The Government had welcomed the establishment of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed on the Territory of the Former Yugoslavia since 1991 and had pledged to bring all offenders to justice, Serbs and Croatians alike. The Government had undertaken a number of confidence-building measures; he could provide the Committee with more details if required.

12. In the border areas, the Government's priority was to guarantee the safety of citizens and preserve law and order. In the area not directly affected by the civil war, the Government aimed to guarantee the rights of minority groups, protect human rights and prevent reprisals against the Serbian minority. He was proud to say that there had been no harassment of Muslim refugees in Croatia and the Government did its best to ensure that all refugees and displaced persons enjoyed the best possible living conditions.

13. The Committee had asked about measures to prevent incitement to racial hatred. He could not truthfully say that no racist views were expressed in Croatia. However, he felt that those who expressed such views did not enjoy widespread support, although people who had suffered greatly and lost their homes and families might understandably be bitter. The Government was reluctant to stop people freely expressing their views or to restrict freedom of the press because of the memory of decades of communist rule, when all opinions except the official ones had been suppressed. That enforced silence had done considerable damage to Croatian society and, now that the ban had finally been lifted, many old grievances were being aired.

14. He hoped that the information he had provided would be useful and said that he was ready to answer any further questions the members of the Committee might have.

15. Mr. YUTZIS (Country Rapporteur) said that two new and positive developments for the Committee's work were that Croatia was the first State party to have sought the Committee's advice by inviting one of its members to visit the country and that it had sent a delegation to discuss the additional information it had provided in response to the Committee's request. That was further evidence of its willingness to maintain an ongoing dialogue with the Committee. During his mission to Croatia, he had been particularly impressed by the in-depth, spontaneous discussions he had had, in the presence of Mr. Smerdel, with students from the law faculty in Zagreb.

16. His comments were to be seen in the light of the Committee's concluding observations, especially its suggestions and recommendations, when it had considered the previous additional information concerning Croatia, of the additional information provided in writing and orally, and of new developments in a rapidly evolving situation. A matter of concern to the international community was the recent decision by the Croatian authorities to request the withdrawal of UNPROFOR. While he was not questioning the Government's sovereign right to take such a decision, there was evidence, as had been observed in official United Nations reports, of mounting tension, especially interethnic tension, in the Croatian areas under United Nations protection since the adoption of that decision. The anticipated withdrawal of UNPROFOR had reportedly heightened the sense of insecurity and apprehension among the Serbian minorities in those areas, had caused them to consider leaving at the same time as the United Nations forces and might prevent them from returning. He would be grateful for immediate clarifications so that the matter could be discussed openly with the Committee before rather than after the event.

17. Another matter of concern was the problem of displaced persons. According to information from United Nations sources, which he would gladly provide to the Croatian delegation, some 30,000 people had fled from Bihac to the northern United Nations Protected Areas (UNPAs), some of their own free will and others under duress, following the demise of the regime in the autonomous province of Western Bosnia. There were also reportedly 16,000 externally displaced persons, some of whom were now in Batnoga and others in the exclusion zone to the south of Karlovac. He requested confirmation or clarification of reports that the Croatian Government had denied most of those persons entry into the territory under its control. According to the July 1994 census and the Croatian Office of Displaced Persons and Refugees, there were 179,909 refugees from Bosnia and Herzogovina. It was reported that, as of September 1994, the Croatian Government had decided not to continue to accord refugee status to Bosnians coming from areas controlled by the Federation. The refusal to issue refugee registration documents to Bosnians particularly affected the Bosnian Muslims, who were no longer entitled to protection and assistance and might be forced back into Bosnia and Herzogovina. By contrast, Croats from Bosnia had been authorized to enter Croatia and stay there. July 1994 statistics of the United Nations High Commissioner for Refugees (UNHCR) referred to 190,816 displaced Croats and non-Serbs from Krajina. The problem was clearly a serious one.

18. Further disturbing reports concerned the arrest and expulsion of a number of Bosnians from Zagreb, on the grounds that they had no papers, and the continuing difficulties experienced by Muslims requesting visas in anticipation of possible entry into Croatia. On the other hand, according to

his sources, some 4,000 Bosnian Croat refugees had been authorized to enter the country in June 1994 without restriction. Unless evidence was provided to the contrary, such treatment appeared to be discriminatory.

19. A point that needed clarifying was whether persons who had acquired Croatian nationality before the entry into force of the new Law on Croatian Citizenship would lose their nationality and need to re-apply. According to Council of Europe sources, aliens were required to provide the names of their mothers as well as their fathers in certain documents, such as school documents and applications to form an association, and he wished to know why.

20. There was a substantial body of evidence contained, inter alia, in a report by Amnesty International, that Serbs accused of war crimes had still not had a fair trial, whereas Croatian citizens who had committed offences against Serbs had not been punished and their cases had not been investigated, even though they had been identified. On the subject of the eviction of people from their homes, he was concerned that the Government had upheld the legality of administrative eviction orders, which appeared to be contrary to a Constitutional Court decision. A report by Amnesty International also claimed that people had been evicted from their homes by members of the military and that the dwellings had been handed over to the armed forces of Croatia.

21. Turning to the problem of freedom of the press and the media in general, he said that the Media Act stipulated that no one with legal immunity could exercise control over the media. There was, however, a parliamentary commission that controlled the media, especially television. Although it was commendable that there was now minority representation on the commission, persons enjoying parliamentary immunity should have nothing to do with media control. A further issue, which was not strictly a legal problem, but one that related more to prevailing economic circumstances, was that there was something of a monopoly over the media which prevented other independent media from operating without restriction.

22. The representative of Croatia had explained some of the reasons why the Provisional Court for Human Rights had not yet become operational; could he explain further whether there were any possible ways and means of establishing a transitional human rights court, even in the present situation? He also appreciated the representative's arguments in favour of not penalizing persons who continued to hold and express extremist views, which the latter had described as a "marginal" phenomenon. He, for his part, was disinclined to dismiss such words or deeds as isolated cases, but considered them to be symptomatic of discriminatory behaviour, which might well assume larger proportions in the long term. Measures should be taken to curtail such acts in order to comply fully with the provisions of the Convention.

23. Mr. de GOUTTES said that the document entitled "Human Rights in Croatia" circulated by the Croatian delegation had been particularly useful in providing updated information on the situation in that country. He drew attention to Croatia's stated readiness to join the human rights protection mechanism for non-members of the Council of Europe, which enabled an aspiring member State of the Council of Europe to apply as of now the standards of the European Convention for the Protection of Human Rights and Fundamental

Freedoms and to establish a judicial organ composed of national judges and members of the European Court of Human Rights. He could but encourage the Croatian Government to continue along that path.

24. He asked whether the Government might not consider making the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination. Recognition of the individual complaints procedure under that article was fully compatible with acceptance of the equivalent procedure under article 25 of the European Convention, even though the two mechanisms differed, since the former was not jurisdictional in nature and the scope of its application was very much broader, covering all civil, economic, social and cultural rights, whereas the latter covered only civil and political rights.

25. He had noted with interest Croatia's willingness to cooperate with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and that a Commission on War Crimes had been set up to collect evidence for the Tribunal and identify persons responsible for such crimes. He wished to know how many cases had already been submitted to the Tribunal and how many such persons had been identified. At the national level, how many people had been prosecuted and convicted in national courts for discriminatory acts under the International Convention on the Elimination of All Forms of Racial Discrimination?

26. Like Mr. Yutzis, he wished to know what policy Croatia had pursued in respect of Muslim refugees from Bosnia and Herzegovina. He would also like to know what measures had been taken to protect the Roma population and how large that population was. Lastly, what was the Croatian Government's position with regard to the court of conciliation and arbitration which the former Conference on Security and Cooperation in Europe (CSCE) had decided to establish to deal with problems of minorities?

27. Mr. VALENCIA RODRIGUEZ, referring to positive aspects of the information document submitted by Croatia (CERD/C/249), commended the inclusion in paragraph 3 of the European Community's criteria for recognizing new States. Welcoming the statement in paragraph 6 that international agreements were part of the Republic's internal legal order and were above the law in terms of legal effect, he asked whether the provisions of the Convention could be invoked directly before domestic courts. Was any national legal provision required to permit recourse to a national court by any individual involving the provisions of the Convention? The fundamental aim of Government policy on the promotion and protection of fundamental freedoms and human rights as described in paragraph 7 was to its credit, as were the legislative guarantees concerning the customs, traditions and culture of minorities and the preservation of their language and literature.

28. Paragraph 19 of the information document stated that the normalization of interethnic relations was a top priority. Confrontations at many different levels, often with regrettable and serious consequences, nevertheless persisted. He wished to know what, in practical terms, those measures involved. Paragraph 20 described negative events in "the occupied territory

of Croatia", but concentrated on the Croatian Government's endorsement of efforts by the international community to remedy the situation and lessen the conflicts between Croatia and the other belligerents. It was obvious that the Government's responsibility did not end with that endorsement.

29. Noting with satisfaction the establishment of various State bodies for the protection of minority and other rights, as referred to in paragraphs 24 to 27 of the information document, he acknowledged the difficulties faced by those bodies, but requested specific information on the outcome of their activities as a demonstration of political will on Croatia's part.

30. It appeared from what was stated in the information document that Croatia was complying with its obligations under article 4 of the Convention. Noting the list in paragraph 37 of cases being dealt with by the courts under various headings and suggesting that the figures given might have increased since the initial compilation, he requested updated information, together with a succinct account of the contents of the cases before the courts involving human rights violations under the Convention.

31. Concerning paragraph 40, he asked for details of the capture of members of the insurgent Serbian paramilitary troops, their conditions of detention and any legal proceedings instituted or completed in that connection.

32. Paragraphs 44 and 45 referred to the prohibition of political parties or organizations and to the possibility of their being banned under article 6 of the 1990 Law on Political Parties. He noted that no such ban had so far been pronounced; but that two applications had been made for a Constitutional Court ruling on the legality of the activities of two parties. What had become of those applications, and what acts of discrimination under the Convention had those parties committed?

33. Paragraphs 46 to 49 of the information document on endeavours to prosecute war criminals covered a sensitive issue and one of the most serious tasks confronting the Government of the Republic of Croatia. The international community must do everything in its power to help the Government achieve the desired results.

34. With respect to article 5 of the Convention, paragraphs 54 and 55 of the information document stated that fundamental human rights were systematically violated, with appalling consequences in terms of human lives, in United Nations Protected Areas (UNPAs), "pink zones" and areas where UNPROFOR had taken responsibility. He asked what had actually been achieved, both nationally and internationally and under the auspices of the Croatian Government, on however small a scale, to remedy that state of affairs. Paragraphs 57 and 58 contained equally dismal information about killings and disappearances. He wished to know what had been done to locate the many thousands of missing persons in Croatia.

35. Paragraphs 68 and 71 of the information document referred to measures to protect and ensure the right of the Serbian minority to be proportionally represented in the Parliament and of ethnic and national communities to be

proportionally represented in local self-government bodies. Paragraphs 18 and 19 of the document entitled "Human Rights in Croatia" stated that the Republic of Croatia wished to become a member of the Council of Europe and its associated institutions. In that connection, he agreed with Mr. de Gouttes and noted that, whatever the outcome of Croatia's initiative, the establishment of the Constitutional Court and the constitutional complaints procedure were certainly encouraging developments.

36. Mr. van BOVEN commended the Republic of Croatia on its willingness to carry on a dialogue with the Committee and thanked the Croatian delegation for the information provided and its oral presentation. The acceptance of a mission to Croatia by the Country Rapporteur was also an indication of the State party's goodwill in what was a most difficult and complex situation. Questions and critical comments by members of the Committee should be seen as part of the role it played in monitoring the Convention.

37. He noted with satisfaction that, according to article 134 of the Constitution, international agreements concluded and ratified by Croatia were part of the Republic's internal legal order and that, in the event of a conflict between domestic and internal law, the latter should prevail. He also noted that the legal effect of article 134 was that the provisions of the Convention could be invoked before the courts and asked whether that procedure was available to individuals.

38. Referring to the section of the document entitled "Human Rights in Croatia" on constitutional law and the rights of minorities, he asked whether Gypsies were considered as a minority for the purposes of the report. According to a recent country report on human rights practices prepared by the United States Department of State, Gypsies, who were victims of discrimination in many countries and who were particularly numerous in Croatia, seemed to be singled out for especially unfair treatment, being refused service in shops and snack-bars, obstructed in their attempts to secure justice by the reluctance of the police to carry out investigations of their complaints, and so on. That was a matter which raised questions under articles 5 (f) and 6 of the Convention. He requested information on the way in which the Parliamentary Commission for Human Rights and the Rights of Ethnic Communities or Minorities and the Government Office for Nationalities Relations contributed to the promotion of human rights in Croatia.

39. He had taken note with interest of Croatia's initiatives with a view to joining the protection system under the European Convention for the Protection of Human Rights and Fundamental Freedoms, its ratification of the International Covenants on Human Rights and the first and second Optional Protocols to the International Covenant on Civil and Political Rights and its acceptance of the possibility that State and individual complaints could be submitted to an international body. He joined Mr. de Gouttes in asking whether the Croatian Government might not also consider accepting the right of individual petition under article 14 of the Convention on the Elimination of All Forms of Racial Discrimination.

40. The report entitled "Human Rights in Croatia" and earlier submissions by that country dealt at length with questions relating to the right to citizenship. The extent to which the Convention might be relevant in that

respect was open to discussion in the light of its article 1, paragraph 2, but article 5 (d) (iii) specifically mentioned nationality. Paragraph 28 of "Human Rights in Croatia" indicated that citizenship could be acquired by origin; by birth in the Republic's territory (under certain conditions); by naturalization; and according to international treaties. However, information in the State Department country report he had referred to earlier indicated that Croatian law on citizenship had the effect of arbitrarily regulating the status as aliens of citizens of the former Socialist Federal Republic of Yugoslavia who enjoyed lawful residence in Croatia, but did not enjoy citizenship of the Republic of Croatia. Long-time residents who were not of Croatian ethnic origin reportedly faced obstacles of all kinds when they tried to obtain Croatian citizenship. Administrative delays had driven many applicants to leave the country because of financial pressure. He invited the Croatian delegation to comment on that information in the light of article 5 (d) (iii) of the Convention.

41. In connection with Mr. de Gouttes' comments on Croatia's collaboration with the International Tribunal and in connection with paragraphs 42 to 44 of "Human Rights in Croatia", he asked whether the Government would be ready and willing to cooperate with the Tribunal whenever an arrest warrant was issued in respect of persons residing in its territory, by submitting and surrendering them to the authorities in The Hague.

42. Article 6 of the Convention extended "effective protection and remedies" to everyone within the jurisdiction of States parties. In that connection, he asked what had been done by the authorities to investigate killings and acts of victimization, especially of Serbs, and to inquire into, punish and put an end to the criminal activities of bodies such as the so-called "Black Legions".

43. The section of "Human Rights in Croatia" entitled "Termination of UNPROFOR mandate" acknowledged the "many positive effects" of the Force's presence, but claimed that it had failed to carry out "most of the major operative provisions of the Vance Plan (Security Council resolution 743 (1992)) and all additional resolutions of the United Nations Security Council". It also referred to continuing human rights violations since UNPROFOR's arrival, adding that the Government judged its continued presence to be "counterproductive to the peace process" and recalling that the President and the Parliament had decided to terminate its mandate. He asked whether UNPROFOR had in fact been entrusted from the outset with a human rights mandate and whether the situation justified the call for its withdrawal. Was there not a very real danger of a dramatic escalation in interethnic violence, especially between Croats and Serbs, and of further violations of international humanitarian law and the provisions of international human rights instruments such as the Convention after UNPROFOR's departure? Following such a high-level political decision, the Committee's role could only be minor, but he feared that, when the Committee next met in a few months' time, the news from Croatia might be even more pessimistic than at present.

44. Mrs. SADIQ ALI said that she welcomed the establishment of a system of quotas for the representation of different ethnic groups in the Croatian Parliament. India had found such a system to be an encouragement to minorities.

45. She asked about Croatia's evaluation of the impact, both in political terms and in terms of the chances of success of the peace process, of the establishment of the Federation of Bosnia and Herzegovina.

46. She wished to know whether the Croatian Government was taking steps, under article 2, paragraph 1 (e), of the Convention, "to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races and to discourage anything which tends to strengthen racial division" and whether, in compliance with article 3, it particularly condemned racial segregation and undertook to prevent, prohibit and eradicate all practices of that nature in territories under its jurisdiction. Reference had been made during the discussion to cases where Serbs in Croatia had not received the protection to which they were entitled. The same could probably be said of other groups and she was particularly concerned about the fate of minorities such as the Romas in isolated pockets in different parts of the country.

47. Lastly, she asked what had been done to sensitize law enforcement officials and to create a more informed and sympathetic attitude on their part towards the human rights of the civilian population of Croatia.

48. Mr. WOLFRUM welcomed the new information that had been provided and noted with interest the contents of paragraphs 13 et seq. of "Human Rights in Croatia" on the internal system of protection, which included references to the Constitutional Court, and of paragraph 39, on refugees and internally displaced persons. He asked whether any constitutional complaints had as yet been filed and how they were dealt with procedurally. Germany's experience with a similar institution was that it was a valuable response to an obvious need. Some 9,000 complaints were filed annually and handled by just 18 judges. Under such conditions, some method of filtering and prioritizing complaints was obviously necessary.

49. In his view, freedom of opinion and expression, particularly in the press should be guaranteed, but its exercise, particularly by the media, could not be totally without limits. In support of that view, he drew attention to the judgement by the European Court of Human Rights dated 23 September 1994 in the Jersild v. Denmark case.

50. As far as Croatia was concerned, he also drew attention to paragraphs 94 and 95 of the report of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia (E/CN.4/1995/54), which described an "extreme example of intolerance ... found in Hrvatski Vjesnik (an independent journal from the Croatian town of Vinkovci) of 10 April 1994", whose front-page headline, reading "Serbs - be damned, wherever you are", had been followed by an obviously inflammatory text. Regardless of whether that constituted a proper exercise of the right to freedom of expression, the Committee should ask whether action had been taken by the Croatian authorities against such flagrant incitement to racial hatred, which clearly came under

article 4 of the Convention. Another issue of interest was the treatment of people from Bosnia and Herzegovina who had found shelter in Croatia. Was it true that some of them had been sent back, even to areas where they were not safe? Some more information on that point would be appreciated.

51. In paragraphs 29 and 30 of "Human Rights in Croatia", information was given on the sensitive issue of citizenship. The Administrative Court of the Republic of Croatia had played a positive role in settling disputes regarding applications, but he would like to have some more information on the background to the situation, which came within the purview of the Convention because ethnic considerations were involved.

52. He fully agreed with Mr. van Boven's comments on UNPROFOR, which was in no way responsible for violations of minority rights. Since the withdrawal of UNPROFOR would probably lead to a worsening of the human rights situation and since States parties to the Convention had an obligation to protect ethnic groups, he would like to know why the Government of Croatia had requested the withdrawal of UNPROFOR.

53. All in all, the additional information supplied by Croatia represented a significant advance on the information provided in Croatia's initial report. The Government of Croatia had to deal with a complicated situation. Apart from having to cope with the consequences of the military conflict, it had had to enact many laws in the light of often contradictory advice from many sources and to try to attain a variety of objectives in difficult economic conditions. Progress had certainly been made.

54. Mr. FERRERO COSTA thanked the delegation of Croatia for the additional information provided and for its obvious willingness to engage in a dialogue with the Committee. Croatia, as a newly independent State, had to face many different problems and to enact a great deal of new legislation. The Committee understood the difficulties involved.

55. He had a number of points to make on the information provided in "Human Rights in Croatia". For example, paragraph 6 indicated that the general right to education of minorities in all parts of Croatia was governed by the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities. He would like to know what specific measures had been taken to implement the Constitutional Law. Paragraph 7 stated that the Serbian ethnic community held 13 seats in the Parliament. What other minorities were there and what was their percentage representation in Parliament? In particular, how was the Italian-speaking minority being treated and were there any problems associated with it?

56. Moreover, he wished to have some further information on the system of constitutional complaints mentioned in paragraph 13 and on the Parliamentary Commission for Human Rights and the Rights of Ethnic and National Communities or Minorities and the Government Office for Nationalities Relations mentioned in paragraph 15. The arrangement referred to in paragraph 17, whereby the observance of human rights would be monitored by a Provisional Court for Human Rights consisting of five members, of whom the chairman and two members should

be citizens of a member State of the European Union, was very interesting and he would like to know how it worked or, if it was not yet operational, how it was expected to work.

57. He also requested more information on the competence and functions of the Council for the Protection of the Freedom of the Press, referred to in paragraph 25, as well as on whether a distinction was made between nationality and citizenship and on the categories of persons who had applied for Croatian citizenship, the number of applications that had been accepted and rejected and the procedures for processing applications. Some further information on the very large numbers of displaced persons and refugees in Croatia, which were creating a very difficult problem, would also be appreciated. How were they being treated and what policy was being applied to them?

58. It was important to show that Croatia supported the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. Paragraph 43 indicated that the Croatian authorities were taking all steps to identify persons who had committed war crimes in the territory of Croatia, regardless of their ethnic or national origin. Some detailed information on that point should be included in the next report, particularly on the number of persons who had been identified as having committed war crimes.

59. He agreed with the comments made by other members of the Committee on the withdrawal of UNPROFOR, which would further complicate the situation with regard to racial discrimination. Had the Government of Croatia considered the negative results of that withdrawal?

60. Mr. CHIGOVERA said that he wished to join other members of the Committee who had expressed appreciation of Croatia's willingness to engage in a continuing dialogue. Most of the questions which he had intended to ask had already been put by previous speakers, so he would limit himself to one particularly important area.

61. A reading of the two reports submitted by Croatia and of other reports on the situation in that country left no doubt that, constitutionally, all citizens appeared to enjoy the same protection. However, the United States country report on Croatia stated that, in practice, there continued to be ever-present a subtle and sometimes open discrimination against the Serbs in such fields as the administration of justice, employment, housing and the free exercise of cultural rights. He was particularly worried by the possibility that Government officials might be involved in human rights abuses based on nationality or ethnic considerations.

62. In addition, the Anti-Racist Information Service's analytical country summary for 1993 stated that ethnic cleansing had been occurring throughout Croatia, although the scale and gravity of the practice seemed to be greater in the Serbian-controlled parts of the country. Ethnic cleansing was characterized by the destruction and confiscation of property, discriminatory dismissal from employment and a general policy of intimidation and harassment. In the Croatian-controlled parts of the country, the Serbian population was the sole target ethnic group. It had been reported that significant numbers

of Serbs had been dismissed from their jobs on the basis of their ethnic origin alone, especially in Government offices and police departments. The Croatian authorities contended that the Serbs had occupied a disproportionate number of jobs in the former Yugoslavia because of their affiliation to the Communist Party and that their dismissals were therefore not based on their ethnic origin, but were the result of the withdrawal of Communist privileges.

63. Since matters of that kind were fundamental to the very purpose and origin of the Convention, he requested the Croatian delegation to comment on them and, if there was some truth in the allegations, to indicate what steps the Croatian Government was taking to comply with the Convention.

64. The CHAIRMAN, speaking as a member of the Committee, said that Croatia was not a unique case in the Committee's experience. Other States parties had even bigger problems. Croatia, however, had become independent only recently and had therefore inherited problems from the past. Conflicts involving minorities had existed before, but not to the same extent as at present. Croatia, in addition to the old problems, also had new problems which might have very serious repercussions on Croatia itself, the Balkans and even central Europe. If Croatia had had 20 or 30 years of existence as an independent State, he would have felt obliged to ask the Government why the Convention was not being implemented in the way that the Committee wished.

65. In its general debate, the Committee had discussed the right to self-determination of peoples vis-à-vis the rights of minorities, as well as the principle of the territorial integrity of States; reference had also been made to the principle of self-defence. When it had considered the report of Yugoslavia some three years previously, the Committee had, in connection with Kosovo, stated very clearly that it was opposed to any attempt to destroy territorial integrity. That particular case was very pertinent in respect of Croatia and he hoped that the Committee would take it into consideration when it drafted its concluding observations. Part of the territory of Croatia was not under the control of the Government. With all due regard for the rights of minorities, what was happening in that particular part of Croatia was a clear case of a concerted attempt to assert the right of self-determination to the point of actual secession. The situation might not be so very serious at the moment, but it was potentially dangerous. The Committee therefore had a duty, once it had established a precedent with regard to a matter of principle, to restate its position whenever circumstances required it to do so, as was the case with Croatia.

66. Another important point concerned the relationship between freedom of expression and the provisions of article 4 of the Convention, which explicitly made all racist propaganda an offence punishable by law and required States parties to prohibit organizations that promoted racial discrimination. Croatia was apparently not in the category of States parties which did not accept the mandatory character of article 4. However, if the Committee were to wait until the situation got out of control and lives were lost as the result of the activities of organizations that had not been declared illegal, there would be no point in its acting at all, since lost lives could never be restored.

67. Mr. SHAHI drew attention to paragraph 52 of "Human Rights in Croatia", where it was stated that the termination of UNPROFOR's mandate would not put an end to the negotiations and peaceful settlement of the conflict in Croatia, but would make a major new contribution to their more efficient continuation and outcome. In view of the general concern about the possibility of a renewed outbreak of hostilities on a wider scale between Croatia and the Serbian forces, he would be grateful if the representative of Croatia could explain exactly how his Government intended to find a solution to the problem of the part of Croatia which had, in effect, seceded.

68. The CHAIRMAN announced that the Committee would continue its consideration of the additional information provided by Croatia at its next meeting.

The meeting rose at 6 p.m.